UNITED
NATIONS

CAT

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.
GENERAL

CAT/C/SR.143
27 April 1993

ENGLISH
Original: FRENCH

COMMITTEE AGAINST TORTURE

Tenth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 143rd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 22 April 1993, at 10 a.m.

Chairman: Mr. VOYAME

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.143/Add.1. The record of the third part (public) appears as document CAT/C/SR.143/Add.2

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GE.93-13023 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Report of Sweden (CAT/C/17/Add.9)

1. At the invitation of the Chairman, Mr. Lindholm and Mrs. Fridström took seats at the Committee table.

2. The CHAIRMAN said that Mr. Sorensen sent his regrets that he was unable to be present as he had to attend another meeting.

3. Mr. LINDHOLM (Sweden), introducing his country's report (CAT/C/17/Add.9), said that the Committee had examined the initial report of Sweden in April 1989. In July of that year, a new Aliens Act had come into force, but the fundamental principles of Swedish refugee and immigrant policy remained the same. Regarding the enforcement of expulsion orders, however, a new provision had been added prohibiting sending an alien to a country where he ran the risk of being subjected to torture.

4. An amendment to the Penal Code regarding the offence of misuse of authority had come into effect on 1 October 1989: under the amendment, a person committing the offence need not necessarily have caused damage in order to be punishable.

5. Two new Acts, one concerning psychiatric compulsory care and the other forensic psychiatry, had come into force on 1 January 1992. The major innovation in the two Acts was a time-limit for compulsory care that was subject to judicial control. Several other Acts were referred to in the report (CAT/C/17/Add.9), to which the members of the Committee might wish to refer.

6. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had visited Sweden from 5 to 14 May 1991; the Committee's report included a number of recommendations, comments and requests for information. The Committee said in its report, among other things, that it had heard no allegation, in the places of detention it had visited, that persons deprived of their liberty had been subjected to ill-treatment amounting to torture, and that it had found no indication of torture. According to the report, it would appear that in the current circumstances persons deprived of their liberty in Sweden ran hardly any risk of being physically maltreated.

7. A number of new events which had taken place since the report currently before the Committee Against Torture was drafted should be noted. First, the authors of an official inquiry into psychiatric care had recently submitted proposals for strengthening the Government's support for the rehabilitation of refugees and other persons suffering from the after-effects of torture. They had recommended the establishment of a special institute against torture and organized violence.

8. The report in document CAT/C/17/Add.9 indicated that a start had been made on revising the Aliens Act in order to limit still further the number of cases in which the frontier police could detain an alien under the age of 16. The new provisions had come into force on 1 January 1993. They could be summarized as follows: an alien under 16 could not be detained unless it was probable that he would be refused entry or expelled, or unless there was an obvious risk that the minor would conceal himself, thereby jeopardizing an impending enforcement measure which ought not to be delayed. The same applied to the implementation of a decision refusing entry. However, the minor could not be detained if it was sufficient for him to be kept under supervision. In other cases of refusal of entry or expulsion, the minor could only be detained as a last resort. He could only be detained if it was a question of implementing a decision refusing entry or an expulsion order and if, on the occasion of previous attempts to implement the decision, it had proved insufficient to keep the minor under supervision. Moreover, in cases of detention, a minor could not be separated from his custodian, or, if there was more than one custodian, from one of them (in the case of the detention of that person or of the minor himself). If the minor had no custodian in Sweden, he could be detained only in exceptional circumstances. Lastly, an alien under 16 could only be detained for a period of 72 hours, and, if there were exceptional reasons justifying it, for a further period of 72 hours.

9. The Swedish delegation had the text of the new legislation available for the Committee and would try to answer any questions members might ask.

10. Mr. EL IBRASHI (Rapporteur for Sweden) thanked the representative of Sweden for his brief but comprehensive introduction of his country's report (CAT/C/17/Add.9) which included some highly satisfactory new developments. The conclusions of the visit to Sweden of the European Committee for the Prevention of Torture, referred to in paragraph 2 of the report and mentioned by the representative of Sweden, were especially noteworthy. It was to be hoped that all parties to the Convention would follow the Swedish example.

11. He would confine himself to asking for clarification on just one or two points. First, in regard to remedies, Sweden's initial report (CAT/C/5/Add.1) indicated, in paragraph 13, that if a person considered himself to have been subjected to illegal practices and if the public prosecutor decided not to investigate, the complainant was free to institute proceedings on his own. It would be useful to know what steps the complainant should take and what the procedure was. It would also be interesting to have details on the additional mechanism in the form of the Parliamentary Ombudsman, referred to in paragraph 14 of the report. In paragraph 82, there was a reference to complaints concerning police officers; it was indicated that, for the purposes of preliminary investigation in such cases, the public prosecutor was assisted by police staff: how were those police chosen and what part did they play in the investigation? In addition, paragraph 83 said that, in the case of offences committed by a judge or other high official of the judicial system, the case was examined by a court of appeal or the Supreme Court: was there a special procedure in that connection, given that, in principle, magistrates could not be dismissed?

12. In paragraph 7 of the report before the Committee (CAT/C/17/Add.9), it was stated that a person guilty of a serious misuse of authority was liable to

imprisonment for at most six years: was that the maximum sentence incurred by persons committing acts of torture, or were other penalties provided for elsewhere?

13. It would be helpful if the report on the rehabilitation of refugees and immigrants with severe mental and physical problems, mentioned at the end of paragraph 15 of document CAT/C/17/Add.9, could be forwarded to the Committee. Lastly, with reference to paragraph 17 of the document, he asked in what circumstances an alien who had been refused entry or was the object of an expulsion order could be detained for up to two months, and on what principles the detention was based.

14. Mr. BURNS (Co-Rapporteur for Sweden) said that Mr. Sorensen had asked him to congratulate the Swedish delegation and to present his apologies for being unable to attend the meeting.

15. First of all, the Swedish authorities should be congratulated, not only on having received as they had done the mission of the European Committee for the Prevention of Torture but also on having published its report. That step should serve as a precedent and an example for other countries.

16. The report under consideration was admirably clear and showed that the Swedish Government was determined to defend the principles set forth in the Convention against Torture.

17. In connection with paragraph 7 of the report, to which Mr. El Ibrashi had referred, he had a suggestion for the Swedish authorities, who were regarded as a model in respect of the defence of human rights. Sweden, entirely legitimately, had chosen not to define the crime of torture in its Penal Code, but rather to base itself on cross-references between the definition of torture in the Convention Against Torture and the various offences defined in the Swedish Penal Code. That was, of course, what had led Mr. El Ibrashi to ask whether the maximum penalty for acts of torture was indeed six years; it was probable that that was not the case (para. 7 referred only to abuses of authority) and that when acts of torture were found to exist, in conjunction with a murder for example, the penalty was heavier. Nevertheless, if the crime of torture was defined, the acts in question would be regarded differently from a qualitative point of view. There was a vast difference, from the moral point of view, between simple murder and a murder committed with torture, or between ordinary violence and violence which could be regarded as acts of torture. However, that qualitative difference remained vague as long as there was no separate definition of the crime of torture.

18. Furthermore, if there was no specific definition of torture it was not possible to establish reliable statistics regarding its practice, because there would be no precise criterion for deciding that a particular act could be qualified as torture, and that must inevitably lead to errors. The absence of reliable statistics ought not, of course, to pose any problem in Sweden, but it could have serious consequences in other countries. Sweden, which was a model for others in that field, should perhaps think of adopting a definition of torture. Doing so should not cause it any special administrative or juridical difficulties.

19. The CHAIRMAN said that the provisions of article 3 of the Convention were recapitulated wholly satisfactorily in Swedish legislation, as was clear from paragraph 6 of the report under consideration. However, where expulsion was concerned, it was not always easy to know whether the person in question risked being subjected to torture in another country. What was done in Sweden to find out whether a person had been tortured and to judge whether he risked being tortured again? His request was simply for clarification, since the Swedish report had obviously satisfied the Committee and the country clearly had no problems in regard to torture.

20. He thanked the Swedish delegation and invited them to return at the following meeting to reply to the questions that had been asked.

21. Mr. Lindholm and Mrs. Fridström withdrew.

The first part (public) of the meeting closed at 10.30 a.m.